IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8041 OF 2006

ALONGWITH

WRIT PETITION NO. 8044 OF 2006

ALONGWITH

WRIT PETITION NO. 8045 OF 2006

ALONGWITH

WRIT PETITION NO. 8046 OF 2006

WRIT PETITION NO. 8047 OF 2006

ALONGWITH

WRIT PETITION NO. 8048 OF 2006

ALONGWITH

WRIT PETITION NO. 8049 OF 2006

ALONGWITH

WRIT PETITION NO. 8033 OF 2006

(Mentioned, not on board. Taken on board)

Harishchandra Kashinath Raut ...Petitioner
V/s.
Vasai Janata Sahakari Bank Ltd. & Ors. ...Respondents

Mr.Rejesh Mestri i/b. M/s.M.P. Vashi & Associates for the Petitioner.
Mr.H.S. Shreepad Murthy for Respondent No.1.

CORAM : A.S. OKA, J.

DATED : FEBRUARY 9, 2007

P.C. :-

1. Heard Advocate for the petitioner and Advocate for the first respondent.

2. These petitions under Article 227 of the Constitution of India arise out of a common order. Since the facts of these petitions are identical, for the sake of convenience, reference is made to facts of the case in Writ Petition No. 8041/2006. The first respondent had granted cash credit facility in favour of the petitioner. An application was made by the first respondent before the second respondent for grant of a certificate under Section 101 of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as "the said Act of 1960"). The said application was dismissed for default. Three years thereafter, a fresh application was filed by the first respondent praying for grant of recovery certificate under Section 101 of the said Act, 1960. By order dated 23rd June, 2005, the Deputy Registrar of the Co-operative Societies rejected the said application. In revision application preferred

by the first respondent for challenging the order dated 23rd June, 2005, Revisional authority has interfered and has passed an order of remand.

3. The learned Advocate for the petitioner submitted that if the first application made by the first respondent was rejected, the second application was not competent. He submitted that in the meanwhile, the first respondent has taken proceedings under the Securitization Act against the petitioner and therefore, now the first respondent is not entitled to recovery certificate under Section 101 of the said Act of 1960.

4. The case of the first respondent is that the earlier application made before the Deputy Registrar was rejected on account of default. It is contended that after the said application was rejected, the borrower paid certain amount. However, as entire amount is not paid, a fresh application for obtaining recovery certificate has been filed.

5. By the impugned order, the revisional authority

has directed the Deputy Registrar to consider the application made by the first respondent afresh. It is obvious that the Deputy Registrar is bound to hear the petitioner before deciding the said application. The petitioner will be at liberty to raise all permissible contentions before the Deputy Registrar for opposing the application made by the first respondent.

6. Subject to what is stated above, no interference is required with an order of remand. Subject to observations made above, writ petitions are rejected.

(A.S. OKA, J.)